IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 15TH NOVEMBER 2006 / 24TH KARTHIKA 1928

WP(C).No. 19916 of 2006(U)

PETITIONERS:

1.KUTTAPPAN, S/O.PAPPUKUTTY,
MANIAPPALLY HOUSE, THOTTAKATTUKARA,
ALUVA WEST VILLAGE, ALUVA TALUK.

2.RADHAKRISHNAN, S/O.MADHAVAN PILLAI,
KOZHIKKATTIL HOUSE, ALUVA KARA,
ALUVA VILLAGE, ALUVA TALUK.

BY ADV. SRI.KURIAN ANTONY EDASSERY
SMT.ANN EMIL JOSEPH
SRI.BOSE K.THACHIL

RESPONDENTS:

1.THE SECRETARY,
THE MINISTRY OF LOCAL SELF GOVERNMENT,
SECRETARIAT,
THIRUVANANTHAPURAM.

2.THE SECRETARY,
ALUVA MUNICIPALITY,
ALUVA.

3.ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ALUVA WEST.

4.K.E.SHAJAHAN, S/O.IBRAHIM,
KANJIRAPARAMBIL HOUSE,
PARAVOOTHARAMURI, PARAVOOR VILLAGE,
PARAVOOR TALUK, ERNAKULAM DISTRICT.

5.SANTHA MATHEW,
D/O.M.E.MATHEW, RESIDING AT 84, ELLAIAMMAN COLONY,
CATHEDRAL ROAD, MADRAS-86.

R1 BY GOVT. PLEADER MR.GEORGE G.VADAKKEL
R2 BY ADV.MR.V.M.KURIAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15.11.2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C)No.19916 of 2006

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Dated: 15th November, 2006

JUDGMENT

The 2nd respondent-Municipality passed an order directing the third respondent to remove the electric post and the sodium vapour street light installed near the bathing ghat in Thoppukadavu at Aluva. This bathing ghat appears to be subject matter of a civil dispute between the petitioners and respondents 4 and 5. The petitioners preferred a representation, Ext.P4 before the Government against the order passed by the 2nd respondent and requested that directions be issued to the Government to have an early disposal of that representation.

2. The Municipality has filed a statement wherein it is pointed out that the civil dispute between the petitioners and respondents 4 and 5 over the property in question is subject matter of a Regular Second Appeal pending before this court as R.S.A.No.735/05. Proceeding before the Government, it is contended, will not be maintainable and the proper remedy is to move this court itself in its civil appellate jurisdiction.

3. I have heard the submissions of Mr.Kurian Antony Edassery, learned counsel for the petitioners and Mr.V.M.Kurian, learned Standing Counsel for the 2nd respondent-Municipality.

4. I find force in the submissions of Mr.Kurian that in view of the pendency of R.S.A.No.735 of 2005, the petitioners will have to seek remedy by moving appropriate applications in the pending R.S.A. Therefore this Writ Petition will stand disposed of directing the petitioners to make appropriate motions in R.S.A.No.735 of 2005 seeking appropriate relief.

srd **PIUS C.KURIAKOSE, JUDGE**